I.R. 87-10

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

FAIR LAWN ADMINISTRATORS
AND SUPERVISORS ASSOCIATION,

Respondent,

-and- Docket No. SN-87-10

FAIR LAWN BOARD OF EDUCATION,

Petitioner,

SYNOPSIS

A Commission Designee declines to restrain arbitration where an Order requesting a restraint was submitted the day before the scheduled date of the arbitration and no good cause was shown for the lateness of the application.

The Designee did restrain the arbitrator from issuing a decision since the arbitration concerned a workload increase which was a result of a Reduction in Force (RIF).

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Appearances:

For the Respondent,
Bennett, Davison & Munoz, Esqs.
(Raymond A. Hayser, of counsel)

For the Petitioner,
Green and Dzwilewski, Esqs.
(Allan P. Dzwilewski, of counsel)

INTERLOCUTORY DECISION

On September 15, 1986, the Fair Lawn Board of Education ("Board") filed a Scope of Negotiations Petition with the Public Employment Relations Commission ("Commission"). The Board seeks a restraint of binding arbitration of a grievance filed by the Fair Lawn Administrators and Supervisors Association ("Association"). The Board also appeared before me on September 15, 1986 and filed an Order to Show Cause by which it sought to temporarily restrain arbitration pending a full Commission decision. The arbitration was set for September 16, 1986. The arbitration concerns the increase of duties which were brought about by the increased workload

following (1) the abolition of a vice-principal position and (2) the merger of two departments when a vacant supervisory position was eliminated.

The demand for arbitration in this matter was made on January 17, 1986 and the Notice of Arbitration was dated August 6, 1986.

The Association does not dispute the facts as alleged by the petitioner. It argues that as a result of the abolition of the two positions, several of the remaining administrators have had a substantial increase in workload but the Board has failed to negotiate compensation.

No good cause was shown by the Board as to why it did not file the instant Show Cause Order in a timely fashion. Accordingly, I declined to restrain the arbitration hearing. I did, however, restrain the Arbitrator from issuing a decision in this matter pending a full Commission review.

Although an employer may exercise its managerial prerogative to reorganize or restructure its operation, it is required to negotiate with the majority representative of its employees for any increase in workload resulting from the reorganization. See, Burlington Co. College Faculty Assn v. Bd. Trustees, 64 N.J. 10 (1973); Red Bank Bd. of Ed. v. Warrington, 138 N.J. Super. 564 (App. Div. 167); Byram Twp. Bd.Ed., 152 N.J. Super. 12 (App. Div. 1977). City of Bayonne Bd.Ed., P.E.R.C. No. 80-58, 5 NJPER 499 (¶10255 1979), aff'd App. Div. Dkt. No. A-954-79 (1980),

pet. for certif. den. 87 N.J. 310 (1981); Newark Bd.Ed., P.E.R.C. No. 79-38, 5 NJPER 41 (¶10026 1979), aff'd App. Div. Dkt. No. A-2060-78 (2/20/80); Dover Bd.Ed., P.E.R.C. No. 81-110, 7 NJPER 161 (¶12071 1981), aff'd App. Div. Dkt. No. A-3380-80T2 (3/16/82).

However, where a workload increase is the direct result of a Reduction in Force, an employer is not required to negotiate over the increased workload. Maywood Bd. of Ed. v. Maywood Ed. Assn., 168 N.J. Super. 45, 5 NJPER 171 (¶10093) (App. Div. 1979), pet. for certif. den. 81 N.J. 292 (1979). Here, it would seem that the arbitration concerns matters which, at least in part, are non-negotiable and, therefore, non-arbitrable. Accordingly, the arbitrator was restrained from issuing its written decision in this matter pending a full Commission decision.

Edmund G. Gerber
Commission Designee

DATED: October 23, 1986
Trenton, New Jersey